

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SCOTT EMERSON FELIX,

No. C 01-03138 WHA

Petitioner,

v.

**ORDER REQUESTING
ADDITIONAL BRIEFING ON
MOOTNESS ISSUE**

SHERIFF MICHAEL HENNESSEY,
Warden

Respondent.

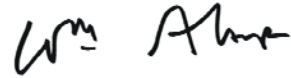
In this habeas action, petitioner contends that the trial judge at his July 1998 commitment proceeding gave an erroneous jury instruction, thereby violating petitioner's federal due process rights. Respondent argues that even if a due process violation occurred at that trial, this issue is moot because petitioner completed the two-year commitment required by that action, was given another trial in October 2006, and was recommitted for an indeterminate term. The parties do not contest that the correct jury instruction was given at petitioner's October 2006 trial. It is unclear from the record, however, what use, if any, was made at the October 2006 trial of the fact that petitioner had already been found to be a sexually violent predator at his July 1998 trial. In reaching its verdict, did the jury at the October 2006 trial consider the result at the earlier proceeding?

No later than **NOON ON MAY 13, 2010**, the parties shall submit written briefs of no more than ten pages regarding the extent to which evidence of petitioner's first commitment was

1 admitted at his later trial. Reply briefs of no more than five pages shall be filed no later than
2 NOON ON MAY 20, 2010.

3
4 **IT IS SO ORDERED.**

5
6 Dated: April 28, 2010.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE